



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,701	01/24/2002	Ji Zhang	84090	3604

24628 7590 03/22/2004

WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

EXAMINER

RAHMJOO, MANUCHER

ART UNIT	PAPER NUMBER
----------	--------------

2676

DATE MAILED: 03/22/2004

72

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,701

Applicant(s)

ZHANG, JI

Examiner

Mike Rahmjoo

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1- 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1 line 6 on page 53 recites" ...the rows (or the columns)..." and line 9 on page 53 recites" ...corresponding columns (or rows)..."

*not
Amended*

It is not clear to the examiner if it is the corresponding rows or the column that is being claimed.

As per claim 1 line 13 on page 53 recites" ...the same or nearby neighboring map..." and line 15 on page 53 recites " ...of the neighborhood map..."

OK

It is not clear to the examiner whether the neighborhood is the same or the neighboring map which is being claimed.

As per claim 7 line 13 on page 54 recites"...the outputs of the experiment...". It is not clear whether the outputs of the experiment correspond to the same or different experiments.

not discussed

not clear, which one

As per claim 7 line 14 on page 54 recites "... with variations in a parameter...". It is not clear what these parameters correspond to. ^{d fact that} Due to the "parameters" are used in conjunction with "the outputs of the experiments" it is therefore essential to be clear. ?

As per claim 7 line 20 on page 54 recites "...individuals mapped...". It is not clear what these individuals are and what they correspond to. ?

Claim 9 has rejections similar to claim 1.

Claims 2- 6, 8 and 10 are also indefinite because they depend on indefinite antecedent claims.

Further clarification of the above claims and other possible claims is respectfully requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1- 4, and 8- 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Grinstein et al (US 2003/0030637), hereinafter, Grinstein.

As per claims 1 and 9 Grinstein teaches providing a matrix of clustered multidimensional biological data where the rows (or the columns) of the matrix are map units representing clusters of individuals mapped to that map unit and the corresponding columns (or rows) represent the components of the data clustering see for example column 9 paragraph [0133] and column 18 paragraph [021¹]; and presenting the clustered biological data as a neighborhood map comprised of the map units where similar data is mapped to the same or nearby neighboring map units (grouping of exons within a cluster) see for example column 18 paragraph[0211]; and as to the best understanding of the examiner in light of the 112 rejections made above that Grinstein teaches shading the map units of the neighborhood map according to the value of a select component of the data cluster represented by the map unit to provide a component plane presentation to visualize the biological data see for example column 16 paragraph [0189] and paragraph [0190].

As per claim 2 Grinstein teaches the biological data is from a microarray (manipulation of the multi- dimensional array) see for example column 3 paragraph [0019].

As per claim 3 Grinstein teaches the microarray provides data regarding gene expression see for example column 10 paragraph [0140] and column 11 paragraph [0145].

As per claim 4 Grinstein teaches the map units are shading by color see for example

column 17 paragraph [0191- 0192] and column 30 paragraph [0304].

As per claim 8 Grinstein teaches the neighborhood map is comprised of hexagonal map units see for example column 17 paragraph [0192] and figures 36 and 46.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5- 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grinstein et al (US 2003/0030637).

As per claims 5- 6 Grinstein teaches different mathematical methods being used e.g. in Clustering, classification, statistical analysis.

However, Grinstein does not teach the clustering using self-organizing map and unsupervised learning methods.

Grinstein teaches in the background of the invention the use of clustering, classification, numerical prediction and statistical analysis, to include general techniques such as Neural Networks, Support Vector Machines, Multiple Dimension Scaling, K- Means, Decision Trees, Association Rules, and similar methods described at length in the technical

literature see for example column 1 paragraph [0004].

It would have been made obvious to one of ordinary skilled in the art at the time the invention was made to incorporate the teaching of the background of the invention to Grinstein to utilize different methods of analyzing data, the different methods allow Grinstein an improved method of analyzing the relationships among different variables represented by the data, see for example, column 1 paragraph [0004].

Response to Arguments

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

As per applicant's arguments on page 9, the applicant merely states that the disclosures of Grinstein et al do not teach or suggest presenting the clustered biological data as a neighborhood map comprised of the map units where similar data is mapped to the same or nearby neighboring map units and shading the map units of the neighborhood map according to the value of a select component of the data cluster represented by the map unit to provide a component plane presentation to visualize the biological data.

The examiner respectfully disagrees.

The applicant does not state without providing any explanation on how the reference differs from the claimed limitations. As clearly shown in the rejection above, examiner

specifically showed how Grinstein reference teaches presenting the clustered biological data as a neighborhood map comprised of the map units where similar data is mapped to the same or nearby neighboring map units and shading the map units of the neighborhood map according to the value of a select component of the data cluster represented by the map unit to provide a component plane presentation to visualize the biological data.

The statement of statutory basis refers to 112 1st paragraph; however, the form paragraph the examiner used clearly showed the rejection being made based on 112 2nd paragraph as being indefinite. The examiner believes that 112 2nd paragraph is proper because the statutory statement does not effect the merit of the rejection.

The examiner would also respond that words in parenthesis are only used for clarification of the claim language.

The terms in parenthesis are not part of the claim limitations.

Inquiry

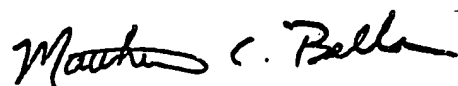
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Rahmjoo whose telephone number is (703) 305- 5658. The examiner can normally be reached on 6:30- 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (703) 308- 6829. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872- 9314 for regular communications and (703) 872- 9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305- 4750.

Mike Rahmjoo

March 19, 2004



MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600